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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,715	06/25/2003	David J. Hayes	CE11022JI250	3453
34952	7590	09/09/2004	EXAMINER	
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. 551 N.W. 77TH STREET, SUITE 111 BOCA RATON, FL 33487			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,715

Applicant(s)

HAYES ET AL.

Examiner

Julie Lieu

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/25/03
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hight (US Patent Application 2003/0218539)

Claim 13:

Hight disclose a device for tracking at least one item, comprising:

- a. A location module 530 for determining the location
- b. A receiver 506 for receiving signals from the at least one item

Art Unit: 2636

- c. Location information for a predefined area
- d. A processor 502 (and 542) for determining whether the location of the at least one device within a predefined area and determining whether the at least one item 402 is within the range.

The reference fails to disclose storing the location if the at least one item is not within the range and if the location of the device is not within a predefined area. However, it would have been obvious to one skilled in the art to store the location of the device 104 in the system as desired because it might be needed or useful for future use.

Claim 14:

The device 102 could be a mobile telephone or a pager, or a mobile communication system because the device is carried by a person and has the capability of informing the person with information regarding the item.

Claim 15:

An alarm in the device 102 is used for indicating that the at least one item is not within the range, if the device is operating in active mode.

Claim 16:

The device 104 communicates with item 102 using a communication standard. Though the reference is silent about a communication standard, it would have been obvious to one skilled in the art that it uses a communications standard and would have used any one of the IEEE communications standards or Bluetooth because they are conventional

Claim 1, 3, 4, and 6:

Art Unit: 2636

The rejection of these claims recites what was discussed in the rejection of their corresponding apparatus claims 13, 14, 15, 16.

Claim 2:

The at least one item is associated with a physical object (animate or inanimate) as disclosed in page 3, para. [0037].

Claim 5:

The system in Hight determined the range and sounds an alarm. Hight fails to disclose considering the current time and if the current time is not within the predefined time period, sounding an alarm indicating that the at least one item is not within the range. However, it would have been obvious to one skilled in the art to configure the system to function as desired. It is only a matter of choice in design as to how the system should provide indications or alarms.

Claim 7:

Hight discloses a method on device for tracking at least one item, comprising:

- a. Determining the location of the device
- b. Determining that the device is moving
- c. Determining that the item is moving within the range of the device.

Though the reference fails to state the determining of the at least one item coming within a range. Nonetheless, it would have been obvious to one skilled in the art, determining the item being within a range is an equivalent function, which is what is done in Hight.

Claim 8:

Hight fails to indicate the time limit. However, it would have been obvious to one skilled in the art to provide a predefined time period for certain conditions. Therefore, a skilled artisan

Art Unit: 2636

would have used a predefined time period in the system of Hight as desired because it is only a matter of choice. It would be up to an implmenter to design the system to function as desired.

Claim 9:

The sysetm in Hight determines whether the item is within the range of the device for a predefine distance and if it is within the predefined range the system indicates that the item is attached to the device.

Claim 10:

The rejection of claim 10 recites the rejection of claim 2.

Claim 11:

The rejection of claim 11 recitees the rejection of claim 14.

Claim 12:

The rejection of claim 12 recitees the rejection of claim 16.

Claim 17:

Hight disclose a device fro tracking at least one item, comprising:

At least one item, each including:

- a. A unique identifier (inherent)
- b. A transmitter 406 for transmitting the unique identifier;
- c. A coupling element for coupling the item to the object (e.g. wristband etc..)

A device including

- a. A location module 530 for determing the location
- b. A receiver 506 for receiving signals from the at least one item
- c. Location information for a predefined area

Art Unit: 2636

- d. A processor 502 (and 542) for determining whether the location of the at least one device within a predefined area and determining whether the at least one item 402 is within the range.

The reference fails to disclose storing the location if the at least one item is not within the range and if the location of the device is not within a predefined area. However, it would have been obvious to one skilled in the art to store the location of the device 104 in the system as desired because it might be needed or useful for future use.

Claim 18

The device 102 could be a mobile telephone or a pager, or a mobile communication system because the device is carried by a person and has the capability of informing the person with information regarding the item.

Claim 19:

An alarm in the device 102 is used for indicating that the at least one item is not within the range, if the device is operating in active mode.

Claim 20:

The device 104 communicates with item 102 using a communication standard. Though the reference is silent about a communication standard, it would have been obvious to one skilled in the art that it uses a communications standard and would have used any one of the IEEE communications standards or Bluetooth because they are conventional

Claims 21-23:

The rejection of claims 21-23 recites the rejection of claims 17-20.

Claim 24:

Art Unit: 2636

As discussed above, it would have been obvious to one skilled in the art to store the location when if the at least one item is not within the range and if the location of the device is not within a predefined area as desired for future usage. It would also have been obvious to one skilled in the art to retrieve the saved location as desired because it may be desirable to find the last location of the item.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

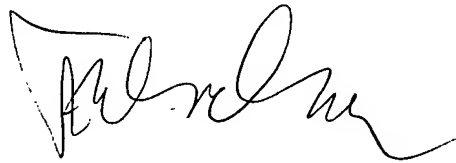
Rabanne et al. (US 2003/0011478).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', enclosed within a hand-drawn rectangular box.

Julie Lieu
Primary Examiner
Art Unit 2636

Sept. 04, 04